

SENATE BILL 946

N1
HB 842/10 – ENV

11r3056
CF HB 1246

By: **Senators Mathias and Manno**
Introduced and read first time: March 1, 2011
Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Condominiums and Homeowners Associations – Priority of Liens – “The**
3 **Residential Association Sustainability Act of 2011”**

4 FOR the purpose of providing that, in the case of a foreclosure of a mortgage or deed of
5 trust on or for a condominium unit, a certain portion of a certain lien on the
6 condominium unit, including certain late fees, interest, and any attorney’s fees
7 and costs for establishing the lien, has priority over a first mortgage or deed of
8 trust under certain circumstances; providing that certain lot owners in a
9 homeowners association are liable for certain assessments and charges;
10 allowing a homeowners association to enforce the payment of certain
11 assessments and charges by imposition of a contract lien under certain
12 circumstances; providing that a certain portion of a homeowners association
13 lien, including certain late fees, interest, and any attorney’s fees and costs for
14 establishing the lien, has priority over a first mortgage or deed of trust under
15 certain circumstances; providing that certain provisions of this Act do not affect
16 or limit the priority of certain liens, mortgages, or deeds of trust; providing for
17 the abrogation of certain provisions of this Act on the occurrence of certain
18 contingencies; making stylistic changes; and generally relating to liens on
19 condominium units and lots in developments with homeowners associations.

20 BY renumbering

21 Article – Real Property
22 Section 11B–117
23 to be Section 11B–118
24 Annotated Code of Maryland
25 (2010 Replacement Volume and 2010 Supplement)

26 BY repealing and reenacting, with amendments,

27 Article – Real Property
28 Section 11–110(d)
29 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 (2010 Replacement Volume and 2010 Supplement)

2 BY adding to

3 Article – Real Property

4 Section 11B–117

5 Annotated Code of Maryland

6 (2010 Replacement Volume and 2010 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
8 MARYLAND, That Section(s) 11B–117 of Article – Real Property of the Annotated
9 Code of Maryland be renumbered to be Section(s) 11B–118.

10 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
11 read as follows:

12 **Article – Real Property**

13 11–110.

14 (d) **(1)** Payment of assessments, together with interest, late charges, if
15 any, costs of collection and reasonable attorney’s fees may be enforced by the
16 imposition of a lien on a unit in accordance with the provisions of the Maryland
17 Contract Lien Act.

18 **(2)** Suit for any deficiency following foreclosure may be maintained in
19 the same proceeding, and suit to recover any money judgment for unpaid assessments
20 may also be maintained in the same proceeding, without waiving the right to seek to
21 impose a lien under the Maryland Contract Lien Act.

22 **(3) (I) THIS PARAGRAPH DOES NOT LIMIT OR AFFECT THE**
23 **PRIORITY OF A MORTGAGE OR DEED OF TRUST HELD BY OR FOR THE BENEFIT**
24 **OF, PURCHASED BY, ASSIGNED TO, OR SECURING AN INDEBTEDNESS TO:**

25 **1. THE STATE;**

26 **2. A UNIT OF STATE GOVERNMENT; OR**

27 **3. AN INSTRUMENTALITY OF THE STATE.**

28 **(II) IN THE CASE OF A FORECLOSURE OF A DEED OF TRUST,**
29 **A MORTGAGE INSTRUMENT, OR AN ENCUMBRANCE RECORDED BEFORE A**
30 **CONDOMINIUM’S LIEN, THE PORTION OF THE CONDOMINIUM’S LIEN ON A UNIT**
31 **CONSISTING OF NOT MORE THAN 6 MONTHS OF UNPAID ASSESSMENTS, LATE**
32 **FEES, INTEREST, AND ANY ATTORNEY’S FEES AND COSTS ASSOCIATED WITH**
33 **ESTABLISHING THE LIEN, LEVIED IN ACCORDANCE WITH THE REQUIREMENTS**
34 **OF THE DECLARATION OR BYLAWS OF THE CONDOMINIUM, SHALL HAVE**

1 PRIORITY OVER A CLAIM OF THE HOLDER OF A FIRST MORTGAGE OR DEED OF
2 TRUST RECORDED AGAINST THE UNIT ON OR AFTER OCTOBER 1, 2011.

3 11B-117.

4 (A) AS PROVIDED IN THE DECLARATION, A LOT OWNER SHALL BE
5 LIABLE FOR ALL HOMEOWNERS ASSOCIATION ASSESSMENTS AND CHARGES
6 THAT COME DUE DURING THE TIME THAT THE LOT OWNER OWNS THE LOT.

7 (B) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW, A
8 HOMEOWNERS ASSOCIATION MAY ENFORCE THE PAYMENT OF THE
9 ASSESSMENTS AND CHARGES PROVIDED IN THE DECLARATION BY THE
10 IMPOSITION OF A LIEN ON A LOT IN ACCORDANCE WITH THE MARYLAND
11 CONTRACT LIEN ACT.

12 (C) SUBJECT TO SUBSECTION (D) OF THIS SECTION, IN THE CASE OF A
13 FORECLOSURE OF A DEED OF TRUST, A MORTGAGE INSTRUMENT, OR AN
14 ENCUMBRANCE RECORDED BEFORE A HOMEOWNERS ASSOCIATION'S LIEN,
15 THAT PORTION OF A HOMEOWNERS ASSOCIATION'S LIEN ON A LOT CONSISTING
16 OF NOT MORE THAN 6 MONTHS OF UNPAID ASSESSMENTS, LATE FEES,
17 INTEREST, AND ANY ATTORNEY'S FEES AND COSTS ASSOCIATED WITH
18 ESTABLISHING THE LIEN, LEVIED IN ACCORDANCE WITH THE REQUIREMENTS
19 OF THE DECLARATION OR BYLAWS OF THE HOMEOWNERS ASSOCIATION, SHALL
20 HAVE PRIORITY OVER A CLAIM OF THE HOLDER OF A FIRST MORTGAGE OR DEED
21 OF TRUST RECORDED AGAINST THE LOT ON OR AFTER OCTOBER 1, 2011.

22 (D) THIS SECTION DOES NOT LIMIT OR AFFECT THE PRIORITY OF:

23 (1) A HOMEOWNERS ASSOCIATION'S LIEN PROVIDED FIRST
24 PRIORITY OVER A DEED OF TRUST OR MORTGAGE BY THE HOMEOWNERS
25 ASSOCIATION'S DECLARATION OR BYLAWS; OR

26 (2) A MORTGAGE OR DEED OF TRUST HELD BY OR FOR THE
27 BENEFIT OF, PURCHASED BY, ASSIGNED TO, OR SECURING AN INDEBTEDNESS
28 TO:

29 (I) THE STATE;

30 (II) A UNIT OF STATE GOVERNMENT; OR

31 (III) AN INSTRUMENTALITY OF THE STATE.

32 SECTION 3. AND BE IT FURTHER ENACTED, That the changes to § 11-110
33 of the Real Property Article, as enacted by Section 2 of this Act, shall be abrogated and

1 of no further force or effect if the Federal Home Loan Mortgage Corporation or the
2 Federal National Mortgage Association by rule, regulation, or policy ceases to
3 purchase first mortgages on condominium units in this State. The Secretary of State,
4 within 5 days of determining that the contingency provided in this section has been
5 met, shall notify in writing the Department of Legislative Services, Legislative
6 Services Building, 90 State Circle, Annapolis, Maryland 21401.

7 SECTION 4. AND BE IT FURTHER ENACTED, That the addition of
8 § 11B–117 to the Real Property Article, as enacted by Section 2 of this Act, shall be
9 abrogated and of no further force or effect if the Federal Home Loan Mortgage
10 Corporation or the Federal National Mortgage Association by rule, regulation, or
11 policy ceases to purchase first mortgages on lots in developments with homeowners
12 associations in this State. The Secretary of State, within 5 days of determining that
13 the contingency provided in this section has been met, shall notify in writing the
14 Department of Legislative Services, Legislative Services Building, 90 State Circle,
15 Annapolis, Maryland 21401.

16 SECTION 5. AND BE IT FURTHER ENACTED, That, subject to the provisions
17 of Sections 3 and 4 of this Act, this Act shall take effect October 1, 2011.